

A G E N D A



Thursday, December 18, 2008

**Austin Water Utility
RECOMMENDATION FOR COUNCIL ACTION****Item No. 6**

Subject: Approve an ordinance authorizing negotiation and execution of a cost reimbursement agreement, related to Service Extension Request No. 2542A, with ONION ASSOCIATES, LTD., providing terms and conditions for construction of a 42-inch water main and appurtenances to provide water service to the Fox Hill Subdivision located east of South IH-35, south of Onion Creek and west of Bradshaw Road with City cost reimbursement for an overall total amount not to exceed \$4,298,125; waiving the requirements of Section 25-9-61, Section 25-9-63, and Section 25-9-67 of the City Code relating to cost reimbursement; and waiving, in an amount not to exceed \$140,000, construction inspection and review fees established in Ordinance 20080908-005. The 42-inch water main has been identified as part of the South IH-35 Water and Wastewater Infrastructure Improvements Program.

Amount and Source of Funding: Funding in the amount of \$4,298,125 is available in the Fiscal Year 2008-2009 Capital Budget of the Austin Water Utility.

Fiscal Note: A fiscal note is required.

For More Information: Seyed Miri, P.E. 972-0202 and Denise Avery 972-0104

Boards and Commission Action: Reviewed by the Water and Wastewater Commission.

The Fox Hill Subdivision is a proposed single and multi-family development located on approximately 214 acres of land east of South IH-35, south of Onion Creek and west of Bradshaw Road (the "Property"), with approximately 41% of the Property within the City's full-purpose city limits. Onion Associates, Ltd., (the "Developer") has submitted Service Extension Request 2542 requesting that the City provide water utility service to the Property which is within the Council approved Impact Fee Boundary, Utility Service Area, and also within the Desired Development Zone and Onion Creek Watershed.

Under the proposed cost reimbursement agreement, the Developer will be required to construct approximately 4,550 feet of 42-inch water main from the terminus of the proposed 42-inch water main in Bradshaw Road at River Plantation Drive to be constructed as part of the South IH-35 Water and Wastewater Infrastructure Improvements Program (CIP No. 6937.003), southwest within Bradshaw Road or an approved routing and the future alignment of Pleasant Valley Road within the Bella Fortuna Subdivision to the southern property line of the Bella Fortuna Subdivision.

The 42-inch water main and appurtenances have been identified as part of the South IH-35 Water and Wastewater Infrastructure Improvements Program.

All required easements that are owned or controlled by the Developer will be dedicated to the City of Austin 30-days after City Council approval of the authorization to negotiate and execute an agreement for cost reimbursement and all other required easements will be dedicated to the City of Austin prior to commencement of construction of improvements. Based on the Utility's capacity analysis, adequate system capacity exists to meet the projected demands of the property to be served and the proposed water improvements will serve additional development.

The City will reimburse the Developer for the actual construction costs of the 42-inch water main and appurtenances constructed within public right-of-way or easements for a total not to exceed \$3,737,500, and the costs for engineering, design and project management of the 42-inch water main and appurtenances within public right-of-way or easements for a total not to exceed 15% of the actual construction costs of the 42-inch water main and appurtenances up to a maximum of \$560,625, whichever is less, for a total not to exceed \$4,298,125. The Developer will bear all other costs for financing, interest, fiscal security, accounting, insurance, easement acquisition and legal services associated with this construction.

Because the Developer will construct water improvements beyond those needed only to serve the proposed development, the Developer is requesting a waiver from City Ordinance requirements of:

- 1) Section 25-9-61 relating to the amount of cost reimbursement. Under this Section, the maximum amount of cost reimbursement for the 42-inch water main is computed by multiplying the capacity of the 42-inch water main in Living Unit Equivalents (LUEs) by \$345 per LUE (42-inch water main at peak hour has a capacity of 9,813 LUEs), resulting in a maximum reimbursement amount not to exceed \$3,385,485.
- 2) Section 25-9-63 relating to the amount of cost reimbursement. Under this Section reimbursement cannot exceed the amount established in 25-9-61 and the amount of cost reimbursement is only for the actual construction costs.
- 3) Section 25-9-67 relating to cost reimbursement payments. Under this Section, cost reimbursement payments are to be made in one (1) payment on March 1 of the second year following the year in which the water improvements are accepted.
- 4) Ordinance 20080908-005 relating the payment of construction inspection and review fees.

This action waives the requirements of Section 25-9-61, thereby allowing the reimbursement of the actual construction costs of the 42-inch water main up to a maximum of \$3,737,500.

This action waives the requirements of Section 25-9-63, thereby allowing the maximum reimbursement set by Section 25-9-61 to be exceeded and allowing for reimbursement of the costs for engineering, design and project management of the 42-inch water main up to a maximum of \$560,625.

This action waives the requirements of Section 25-9-67, thereby allowing the cost reimbursement payment for the approved design, construction plans and specifications for the 42-inch water main in one (1) payment 30-days after the opening of the bids for the 42-inch water main and appurtenances and also allowing the cost reimbursement payment for the actual construction costs of the 42-inch water main in one (1) payment 90-days after final acceptance of the 42-inch water main and appurtenances.

This action waives the requirements of Ordinance 20080908-005, thereby allowing the waiving in an amount not to exceed \$140,000 for construction inspection and review fees associated with the 42-inch water main and appurtenances.

The Developer will conform to the City of Austin design criteria and construction standards in all respects. The Developer will construct all required improvements at their cost subject to reimbursement as authorized by Council and after approval of construction, the applicant will dedicate the facilities to the City for ownership, operation and maintenance.

The Developer will meet the ethnic specific M/WBE utilization goals or demonstrate a good faith effort to meet the goals for consultants as established by Resolution 20071108-127, Third-Party Agreements.

The Developer also will allow the City to use the Plans and Specifications approved by the Director, to solicit and publish invitations for bids for the construction of the improvements following standard City bidding practices and procedures, including the minority-owned business enterprise procurement program found in Title 2 of the City Code, as amended, and Chapters 212 and 252, Texas Local Government Code, as amended.